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RHEFHLC/DEPT OF HOMELAND SECURITY WASHINGTON DC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHINGTON DC PRIORITY
RUEHC/DEPT OF LABOR WASHINGTON DC PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

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SENSITIVE
SIPDIS

DEPT FOR G/TIP, G-ACBLANK, INL, DRL, PRM, EAP/MTS, EAP/RSP
STATE PASS FOR USAID

E.O. 12958: N/A

TAGS: [PHUM](#) [PGOV](#) [PREF](#) [ELAB](#) [SMIG](#) [KCRM](#) [KWMN](#) [KFRD](#) [KTIP](#)
ASEC, XC, BG, CH, FR, IN, NP, PK, UK, MY
SUBJECT: MALAYSIA'S NINTH ANNUAL TRAFFICKING IN PERSONS
REPORT

REF: A. STATE 5577 - ADDITIONAL GUIDANCE

- [1](#)B. 08 STATE 132759 - PREPARING THE TIP REPORT
- [1](#)C. KL 29 - MALAYSIA ENGAGED IN UPR PROCESS
- [1](#)D. 08 KL 1073 - GOM SEEKS USG TIP EXPERTISE
- [1](#)E. 08 KL 1060 - MAID'S ABUSER FOUND GUILTY
- [1](#)F. 08 KL 1017 - INTERIM TIP ASSESSMENT
- [1](#)G. 08 KL 1010 - DPM HEARS TIP CONCERNS
- [1](#)H. 08 KL 955 - NEW TIP SECRETARIAT
- [1](#)I. 08 KL 940 - FINNISH COMPANY ASSISTS FORCED LABOR
VICTIMS
- [1](#)J. 08 KL 934 - AMBASSADOR'S LETTERS
- [1](#)K. 08 KL 880 - TIP ACTION PLAN DELIVERED
- [1](#)L. 08 KL 799 - STAFFDEL DISCUSSES TRAFFICKING OF
BURMESE
- [1](#)M. 08 KL 786 - STAFFDEL LUSE ENGAGES PM'S OFFICE MFA
- [1](#)N. 08 KL 653 - AMB MEETS HUMAN RESOURCE MINISTER
- [1](#)O. 08 KL 495 - BURMESE ALLEGE TRAFFICKING AT BORDER
- [1](#)P. 08 KL 460 - FORCED AND CHILD LABOR REPORT
- [1](#)Q. 08 KL 448 - AMBASSADOR MEETS WOMEN'S MINISTER
- [1](#)R. 08 KL 422 - ACCUSED TRAFFICKER CHARGED
- [1](#)S. 08 KL 392 - AMBASSADOR MEETS WITH AG

[1](#)1. (SBU) SUMMARY: Malaysia made some progress in addressing the challenges associated with trafficking in persons during this reporting period, building incrementally on the advances it made last year. Malaysia began implementing and enforcing its comprehensive anti-trafficking law, which went into full force on February 28, 2008. The Malaysian government (GOM) took steps to build its capacity to combat TIP. The GOM established an interagency national anti-trafficking council and supporting secretariat. The Ministry for Women, Family, and Community Development (Women's Ministry) operated two TIP victim shelters, one for minors, and identified a third shelter scheduled to begin operating by mid-2009. The Royal Malaysian Police (RMP) referred 98 suspected TIP victims to the government-operated shelters and hundreds more to the Philippines and Indonesian embassies and NGO operated shelters. The Attorney General's Office charged seven suspected traffickers under the new law. Malaysia convicted its first trafficker under the new law while the other trials continued. Government agencies coordinated with local NGOs on some TIP cases. Nevertheless, Malaysia did not comply with U.S. minimum standards. The government has not sufficiently addressed credible

allegations immigration officials are involved in the trafficking of mostly Burmese refugees to the Thai border area. Malaysian law enforcement officials are investigating some labor trafficking cases, but has not yet made any arrests for labor trafficking. The government has not developed or implemented procedures to identify victims of labor trafficking. The government has not acted to end the common practice by Malaysian employers of confiscating migrant workers' passports. End Summary

¶2. (U) Post's submission for the Ninth Annual Trafficking in Persons (TIP) Report for Malaysia follows. Responses are keyed to paragraphs 27 - 30 of ref B. Embassy's point of contact for TIP is political officer Enrique R. Gallego (phone: 603-2148-4891 or 984-4831 (IVG), fax: 603-2168-5165, email: gallegoer@state.gov). The Embassy spent the following time preparing the TIP report: FS-1: 16 hours; FS-3: 80 hours; FSN: 40 hours.

¶3. The Country's TIP Situation (PARA 23)

¶A. (SBU) Multiple sources are available for information on trafficking in persons (TIP) in Malaysia. Media coverage on trafficking in persons increased during the reporting period, including investigative reports on the trafficking of Burmese refugees and trafficking in East Malaysia. Civil society organizations (CSO) and local and international NGOs, such as the Malaysian Bar Council, Tenaganita, and Boat People SOS, also provided post with information on TIP. The government of Malaysia (GOM), primarily the Women's Ministry, Royal

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Malaysian Police (RMP), and the Secretariat to the Council for Anti-trafficking in Persons (TIP Secretariat) provided post with information on GOM efforts to combat TIP (ref H). Post considers all these sources generally reliable. The draft national action plan included using data collection to analyze the scale and nature of trafficking in Malaysia.

¶B. (SBU) Malaysia was a destination, and to a lesser extent, a transit and source country for adults and minors trafficked for the purposes of forced labor and commercial sexual exploitation. The overwhelming majority of victims came to Malaysia seeking greater economic opportunities, but later found themselves victimized either by their employers, employment agents, or traffickers who supplied migrant laborers and prostitutes in Malaysia. Trafficking in Malaysia was a regional problem driven by economics. Migrant workers from Indonesia, Nepal, India, Thailand, China, the Philippines, Burma, Cambodia, Bangladesh, Pakistan, and Vietnam accounted for nearly all of Malaysia's trafficking victims. The internal trafficking of Malaysians, specifically women from indigenous groups and rural areas, for labor and commercial sexual exploitation occurred. Sources assisted or attempted to assist Malaysian citizens who were trafficked abroad including to Singapore, Hong Kong, France, and the United Kingdom. There were no accurate statistics for the total number of trafficking victims in Malaysia. Malaysia employed approximately 2.1 million documented migrant and according to local NGOs an estimated one million undocumented workers in 2008. A significant number of migrant workers on plantations, construction sites, textile factories, and employed as domestic workers experienced restrictions on their movement, deceit and fraud concerning their wages, confiscation of their passports, and often were in debt bondage to agents or employers (ref. P). Government and NGO statistics assess there are some 380,000 to 400,000 women employed as domestic servants in Malaysia, an unknown number of whom worked in abusive situations exacerbated by conditions of debt bondage. There were no reliable statistics for the number of victims trafficked into prostitution, but the RMP, foreign embassies and NGOs reported over 400 female suspected trafficking victims were rescued from trafficking conditions in the commercial sex trade in 2008. Approximately 20 percent of the trafficking

victims sheltered and rescued by the GOM, NGOs, and foreign embassies were below the age of 18.

1C. (SBU) Debt bondage was the most common form of control employers exerted over victims, regardless of whether the victim was employed in licit or illicit activities. NGOs reported employers often do not to pay foreign domestic workers for the first three to six months in order to recoup the costs charged by recruitment agencies. Some workers were housed in factory owned residences and charged rent, which was deducted from their salaries.

1D. (SBU) Burmese refugees are vulnerable to being trafficked. Numerous credible sources allege immigration officials are involved in the trafficking of Burmese refugees held at Malaysian immigration detention centers (IDC) (ref. F, G, H, J-M, and O) Indonesian, Vietnamese, Cambodian, Thai, and Filipina women are vulnerable to commercial sexual exploitation. They are also vulnerable to labor exploitation, especially as domestic workers. Indonesian, Vietnamese, and Bangladeshi men are vulnerable to labor trafficking. Malaysians from rural communities and indigenous groups, such as the Orang Asli and Penan tribe, are vulnerable to both internal and external trafficking. Rural ethnic Indians working at plantations are vulnerable to debt-bondage and forced labor.

1E. (SBU) Most trafficking victims in Malaysia were economic migrants seeking better wages than those available in their countries of origin. We have no data to support the conclusion, but common sense suggests Indonesia as the dominant source of migrant labor to Malaysia was the source

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of the greatest number of trafficking victims. Post's interviews with trafficking victims revealed a common pattern. Typically, an employment agent recruited the trafficking victim from his or her home village as the first step of a debt-bondage arrangement with a Malaysian employer. For an initial payment, or more often for a certain debt, the recruiter obtained an official passport (with false data for underage girls, in cases we reviewed showing the girls' age as 25), an exit permit, and transportation from Indonesia to Malaysia.

(SBU) Based on NGOs' reports, victims of trafficking, regardless of their origin, were usually poor, uneducated, unskilled laborers recruited by their fellow citizens but later passed to Malaysian agents. Some victims were willingly smuggled into Malaysia or entered on tourist visas, but found themselves victimized when they voluntarily or involuntarily entered the undocumented labor market. Upon arrival, a Malaysian employment agent assumed control of and assisted with entry. The Malaysian employment agents often avoided individual immigration inspection of the trafficking victims. We understand the pattern is, the Malaysian employment agent paid the Indonesian agent for supplying the worker, or the worker acquired additional debt with the new agent for placement, employment documentation, transportation, temporary lodging, etc. Employment agents placed most workers in their previously agreed positions as domestics, agricultural workers, etc. However, some agents reportedly sold individuals into brothels, karaoke bars, or passed them to sex traffickers. Employers commonly confiscated workers' passports. Some employers forced laborers to work long hours, without pay, until the debt-bond was paid. Reportedly, similar modus operandi applied to migrant workers from Bangladesh, Cambodia, and Vietnam. Information from the RMP, NGOs such as Tenaganita and the Migrant Workers Group indicated organized syndicates represented the bulk of traffickers. Exploiters ranged from large plantations and factories to entertainment centers and karaoke bars to families exploiting domestic workers. The RMP reported that two or more large organized criminal syndicates, as well as a few smaller groups, trafficked foreign women into Malaysia, using Malaysia either as the

women's final destination or as a transit point to a third country. The syndicates sometimes used employment agencies as fronts for both people smuggling and trafficking in persons.

¶4. GOM's Anti-TIP Efforts (Para 24)

¶A. (U) The government acknowledges TIP is a problem in the country. The GOM drafted and passed a comprehensive anti-TIP law in 2007. The law went into full force in March 2008. In its submission for the Universal Periodic Review, the GOM placed primary responsibility for TIP in Malaysia on source countries and affirmed that the problem of TIP "can never be solved by the transit or destination state."

¶B. (SBU) The GOM's lead policy body on TIP issues in Malaysia is the National Council for Anti-trafficking in Persons is made up of government agencies with a role in combating trafficking as mandated in the anti-TIP law. The Home Ministry is the coordinating ministry regarding trafficking and the Secretary General of the Ministry chairs the Council. Other agencies with representation on the Council are: Ministry of Foreign Affairs; Ministry of Women, Family, and Community Development; Ministry of Human Resources; Ministry of Transport; Ministry of Information; the Attorney General's Office (AGO); the Royal Malaysian Police; the Department of Immigration; the Department of Customs; and the Malaysian Maritime Enforcement Agency. Two NGOs, Malaysia's Human Rights Commission (SUHAKAM) and the National Women's Council, and a Malaysian university professor also sit on the Council. The Home Affairs Ministry established the Secretariat to the Council of

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Anti-trafficking in Persons (TIP Secretariat) to support and advise the council regarding combating TIP. The council also established three committees, legislative, enforcement, and protection and rehabilitation, to oversee policy developments and reviews. The RMP organized a TIP task force at its national headquarters as part of its plan to field local TIP task forces throughout the country.

¶C. (SBU) The government faces several limitations as it combats TIP. The most important limitation is the GOM's lack of experience handling TIP cases (ref. D and H). The RMP, AGO, and Women's Ministry conducted ongoing internal training regimes to build capacity to address identified gaps in capabilities, which included identifying trafficking victims, evidence collection and management, providing social services to TIP victims, and interagency and international coordination training. Both the RMP and AGO hosted international training workshops and seminars, attended by representatives from ASEAN member states (source countries), Australia, and the United States to share ideas on combating TIP. Other capacity building sessions were the pilot course for the ASEAN Awareness Training for Judges and Prosecutors on Criminal Justice Responses to Trafficking in Persons (hosted by Malaysia) and the ASEAN-Republic of Korea Workshop on TIP and Migrant Smuggling. The Women's Ministry lacked practical experience assisting trafficking victims and organized training for 191 Ministry officers, tapped as trafficking victim protection officers, and personnel tasked to operate trafficking victims' shelters.

(SBU) Corruption also limits the GOM's effectiveness in combating TIP. The credible allegations of involvement of immigration officials in trafficking/extorting Burmese refugee tarnished the Immigration Department's overall effort to interdict trafficking in persons. Low-level immigration officials were among Malaysia's lowest paid public servants, making them vulnerable to corruption.

¶D. (SBU) The TIP Secretariat is tasked with monitoring and coordinating the government's efforts to combat TIP. Interagency communication remained problematic, a difficulty

not limited to the GOM's anti-TIP effort. The GOM provided briefings to Post on their assessment of TIP in Malaysia and the government's ongoing efforts to combat it. The GOM did not maintain extensive statistics for trafficking in persons as their TIP databases are under development. The RMP and Immigration Department provided general information on trafficking victims rescued and detailed information on the number of suspected TIP victims referred to the Women's Ministry's TIP shelters. Two local NGOs, Tenaganita and the Women's Aid Organization (WAO), and the embassies of Thailand, Indonesia, and the Philippines reported Malaysian government agencies referred over 300 suspected victims of trafficking to their respective missions in 2008. Sources within the diplomatic community noted cooperation with Malaysian law enforcement in referring rescued nationals, coordinating repatriations, and using embassy personnel as translators during police interviews with suspected TIP victims referred to the Women's Ministry shelters.

14. INVESTIGATION AND PROSECUTION OF TRAFFICKERS (PARA 25)

1A. (SBU) The GOM initiated drafting of its comprehensive anti-trafficking in persons law in 2006. The bill was introduced into Parliament in early 2007. The House unanimously voted for the bill on May 11, 2007. The law was gazetted on July 26, 2007 and went into full effect on February 28, 2008. The law includes provisions for trafficking in persons for sexual and non-sexual exploitation and covers internal and transnational trafficking in persons. The law's scope encompasses offenses that took place both in and out of Malaysia. The law is applicable if Malaysia is the receiving country or exploitation occurs in Malaysia. The law also includes cases when the receiving country is a

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foreign country, but the trafficking victim started in or transited through Malaysia. The law includes extension of the Act to extra-territorial offenses including on ships and aircraft registered in Malaysia and Malaysian citizens and permanent residents outside and beyond the limits of Malaysia benefiting from the exploitation of trafficking victims. The law states it is the prevailing law regarding trafficking in persons and supersedes conflicting or inconsistent provisions of other written laws.

The law's definitions of trafficking include both trafficking of persons and trafficking of children for the purpose of exploitation. If persons convicted of trafficking also used threats, coercion, abduction, fraud, deception, abuse of power, etc., the law provides for lengthier prison sentences. The law includes provisions for punishing persons profiting from the exploitation of trafficking victims.

Malaysia has other laws that can criminalize trafficking or elements of trafficking. The following is a summary of the legal provisions that authorities could use in Malaysia against traffickers in addition to the new comprehensive anti-TIP law.

-- Constitution, Articles 6(1) and 6(2): Prohibit slavery and forced labor.

-- Penal Code, Sections 340-348: Address "wrongful confinement" of a person against his/her will. Punishments include maximum prison terms from one to three years and a fine.

-- Penal Code, Section 372: Amended in 2002 to include stronger anti-trafficking language, addresses exploitation of any person for purposes of prostitution. Exploitation is defined to include selling, hiring, or otherwise obtaining possession of any person with the intention to employ or use the person for the purpose of prostitution (either inside or outside of Malaysia) or knowing or having reason to believe that the person will be so employed or used. Section 372

expands the offense of exploitation to include using false pretense or deceitful means to bring into or take out of Malaysia any person; harboring or receiving any (exploited) person and wrongfully restraining any person in any place. Wrongfully restraining is further defined as withholding clothing or property, threatening the person with legal proceedings to recover any debt or alleged debt, and detaining a person's identity card or passport. Punishment under this section of the Code includes a prison term, which may extend to 15 years, caning and a fine.

-- Penal Code, Section 372A: Provides the same penalties as section 372 for anyone who lives wholly or in part on the earnings of the prostitution of another person.

-- Penal Code, Section 373: Provides the same penalties as section 372 for anyone who keeps, manages, or assists in the management of a brothel.

-- Penal Code, Section 374: Addresses unlawful compulsory labor and includes punishment by imprisonment for a maximum one-year term and the possibility of a fine.

-- Immigration Act, Sections 55(A) and Sections 56(1)(d): Covers a wide spectrum of immigration violations related to illegal entry or entry under false pretenses. The Act also addresses "employing" and "conveying" illegal aliens. The Act was amended in 2002 to toughen significantly punishments for immigration violators. Those convicted of illegal entry face a fine of up to Malaysian ringgit (MYR) 10,000 (USD 3,030) (USD 1 = MYR 3.3) and/or a prison sentence of up to five years, and caning of up to a maximum of six strokes. The penalty for employing an illegal alien is a fine of between MYR 10,000-50,000 (USD 3,030-15,151) for every illegal immigrant employed and/or a prison term of up to 12

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months. An employer employing more than five illegal immigrants will be imprisoned from six months to five years and caned up to a maximum of six strokes. The penalty for "conveying" (trafficking) illegal immigrants is a fine of MYR 10,000-50,000 (USD 3,030-15,151) for every individual trafficked. An individual convicted for trafficking more than five illegal immigrants will also be imprisoned for between six months and five years, and caned up to a maximum of six strokes.

-- Child Act (2001): Merges provisions from an array of diverse legislation pertaining to children and young persons (the Women and Girls Protection Act, the Juvenile Court Act, and the Child protection Act) into one law. The Act specifically prohibits trafficking of children and makes it an offense to sell, let to hire, or procure (by threat or intimidation by false pretense, fraud, or deceit) any child (defined as anyone under the age of 18) for the purpose of sexual exploitation. Penalties for these offenses are a maximum prison term of 15 years and a maximum fine of MYR 50,000 (USD 15,151). The Child Act also authorizes the police to provide protection and rehabilitation for children in need. A child in need is defined to include a child who "is being induced to perform any sexual act, or being in any physical or social environment which may lead to the performance of such act".

-- Passports Act: Criminalizes the forgery or alteration of travel documents (including passports, residence permits, and visas). Also criminalizes false statements or misrepresentation used to gain illegal entry into Malaysia. Penalties range from MYR 10,000-100,000 (USD 3,030-30,303) fine, 5-10 years in prison, and six strokes of a cane. Section 12(1)(f) of the Passports Act also criminalizes the unlawful possession of another persons passport; the penalty for which is a fine not exceeding MYR 10,000 (USD 3,030) and/or imprisonment not exceeding five years.

Preventive Laws:

-- The Emergency (Public Order and Prevention of Crime) Ordinance (EO): Used against persons, usually criminal syndicates that are involved in illicit activities (such as violent crime, document forgery and people smuggling), which threaten public order.

-- Restricted Residence Act (RRA): Allows the government to require individuals who are suspected of engaging in criminal activity including trafficking to move to a pre-determined location in the country and remain there under close police supervision. The RRA does not require a formal charge to be filed against the suspected individual.

B and C. (SBU) The comprehensive anti-TIP law does not distinguish between trafficking for sexual and non-sexual exploitation. In both cases, the law includes the same guidelines for imprisonment and fines. If convicted of trafficking in persons under the anti-TIP law, a person is subject to a maximum sentence of 15 years and a fine. For cases involving coercion, fraud, deception and cases of child trafficking, the maximum sentence is 20 years and fine. Profiting from the exploitation of a trafficking victim carries a maximum sentence of 15 years and a fine of ranging from MYR 50,000 - 150,000 (USD 15,030 - 45,454). The law makes inadmissible and irrelevant prior consent of the trafficking victim and past sexual behavior.

1D. (SBU) The punishments for trafficking are commensurate with those prescribed for rape. The prescribed penalties for rape include a maximum sentence of 20 years and caning. If the woman is hurt, "put in fear of death," is under 16 years of age, pregnant, or a victim of incest, the maximum sentence is 30 years and caning. If the victim dies, the sentence is 15-30 years and a minimum caning of ten strokes. Under Malaysian law, rape is a crime of a man against a woman.

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Rape between men is covered under a different section of the law with sentence guidelines of 5-20 years imprisonment and caning.

1E. (SBU) The AGO initiated prosecutions under the anti-TIP law against seven alleged traffickers (all commercial sexual exploitation cases) during the reporting period. One suspected trafficker absconded while out on bail. His whereabouts remained unknown. The AGO obtained its first conviction under the anti-trafficking law on December 22. The judge sentenced the trafficker to eight years in prison for trafficking an Indian national for commercial sexual exploitation. A Malaysian court found the former employer of Nirmala Bonet, an Indonesian national physically abused and disfigured while employed as a domestic worker, guilty of three counts of committing grievous harm and sentenced her to three concurrent 18-year terms, but remains free pending her appeal (ref. E). The RMP also held three suspected traffickers, two female Vietnamese and one Malaysian national, under preventive laws. The RMP is currently investigating at least two labor trafficking cases. Use of preventative laws was consistent with law enforcement actions taken against terrorists and narcotics traffickers and perpetrators of other complex criminal conspiracies.

(SBU) The Malaysian government actively investigated cases of trafficking involving victims of commercial sexual exploitation. The GOM has not developed or implemented procedures to identify victims of labor trafficking. Police efforts to break criminal syndicates were complicated by layers of intermediaries, some of whom reside outside Malaysia. Often trafficking victims, both Malaysians who have gone abroad and foreigners brought to Malaysia, may only know one intermediary, who is probably using a false identity. In investigating cases of trafficking, police investigators attempted to question repatriated Malaysian victims as soon as they returned, but the victims usually could not or refused to provide enough information to assist

the investigation. In some cases, rescued victims feared retaliation by the traffickers.

(SBU) The government did not prosecute employers who confiscated passports of migrant workers although confiscation of passports is in violation of Section 12(1) (f) of the Passports Act. A significant number of employers, who hired foreign migrant workers, held the wages of their employees in "escrow" until completion of a contract. The government has not acted to end the common practice by Malaysian employers to confiscate migrant workers' passports.

1F. (SBU) The GOM provided specialized training to government personnel with responsibilities to combat trafficking. The Women's Ministry conducted a series of training events for the ministry's victim protection officers. The RMP and AGO conducted in-house training and hosted training which included representatives from Indonesia, Thailand, Cambodia, Singapore, Australia, and the United States. The government conducted workshops to disseminate GOM guidelines for implementing the anti-TIP law. Both Tenaganita and SUHAKAM provided instructors at government-sponsored training events. The Malaysian Armed Forces received TIP awareness training prior to peacekeeping deployments.

1G. (SBU) The Philippines and Indonesian Embassies reported that the RMP cooperated with them on anti-trafficking law enforcement matters. Malaysia, the Philippines, Indonesia, Cambodia, Brunei and Thailand used the guidelines of the multilateral "Agreement on Information Exchange and the Establishment of Communication Procedures" which established a framework for cooperation on border and security incidents, transnational crimes (including trafficking in persons), and other illegal activities. Malaysia was an active partner in the "Bali Process" initiated by Australia and Indonesia.

1H. (SBU) There were no extraditions of Malaysian nationals

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for trafficking offenses in 2008 and no known requests. Section 108A of the Penal Code allows Malaysian authorities to prosecute a Malaysian who commits or abets a crime in another country that would be deemed an offense under the Penal Code. Malaysia is a party to the ASEAN Mutual Legal Assistance Treaty, which is designed to facilitate and expedite regional cooperation in fighting transnational crime. Malaysian law does not prohibit extradition of Malaysian nationals.

1I. (SBU) During the reporting period there were widespread reports from NGOs, international organizations, civil society, and first hand accounts from refugees that immigration officials were involved in the trafficking of Burmese refugees from immigration detention centers (IDC) at the Thai-Malaysian border, where some refugees were sold to trafficking syndicates. In January 2009, the Foreign Minister Rais and Home Minister Syed Hamid Albar publicly denied the allegations. In a January 2009 interview for a local news program, Director General of Immigration Makmood bin Adam stated he was forming a "committee" to "interview those with information (regarding the trafficking allegations) and if there is evidence we will investigate and write a report." In the interview, he stressed the committee should not/not be mistaken as a public inquiry. He also said the Immigration Department previously received information about immigration officials' involvement, but that no evidence was provided to substantiate the claims. In November 2008, during a Parliamentary session, opposition Member of Parliament Charles Santiago demanded a transparent investigation after the Home Minister stated that a special committee formed by the Immigration Department found no evidence their officials were involved in trafficking of Burmese refugees.

1J. (SBU) As noted above, in paragraph I, credible reports based on Burmese refugees' first hand accounts implicated

Malaysian immigration officials' involvement in the trafficking of Burmese refugees along the Malaysian-Thai border. Immigrations officials allegedly received MYR 700 (approximately \$200) per person handed over to traffickers operating along Thailand's southern border. Several local NGOs estimated immigration officials handed over a significant number of Burmese refugees to the traffickers, who then demanded ransoms, ranging from MYR 1,000 (approximately \$303) for children to MYR 1,900 - 2,500 (\$575 - 758) for adults, in exchange for their freedom. Those unable to pay were sold for the purpose of labor and commercial sexual exploitation. Some reports indicated traffickers sold small children not freed by ransom to child beggar syndicates in the region. The government claims to have investigated the allegations, but did not find evidence they were true. Local NGOs and some local politicians are calling for the government to conduct a transparent investigation into the allegations.

(SBU) In July 2008, the government arrested and indicted the Director-General (DG) and his deputy (DDG) for graft and corruption involving the acceptance of bribes for issuance of visas to migrant workers. Both officials were relieved of their duties pending the outcome of their trial. The former DG is accused of accepting bribes to approve the issuance of work visas for Bangladeshi laborers, a group known to be vulnerable to labor trafficking and exploitation. The former DDG is accused of facilitating the issuance and extension of social visas for Chinese nationals working as "Guest Relations Officers" (GRO), a euphemism for women engaged in prostitution. Activists and NGOs reported that trafficking syndicates operating in Malaysia transport a significant number of trafficking victims legally with work and "GRO" visas. Local NGOs, such as Tenaganita and the Migration Workers Group, told Post they believe some of the Bangladeshi and Chinese nationals whose visas the former DG and his deputy facilitated were possible TIP victims.

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1K. (SBU) Federal law criminalizes profiting from prostitution and bans pornography. The law also criminalizes the act of prostitution by foreigners. Although not widely enforced, under Malaysia's dual legal system incorporating shari'a courts, Muslims are subject to Islamic laws prohibiting "khalwat", or "close proximity", between men and women who are not married to each other. Punishments varied from state to state, usually included a fine and jail sentence, but in most cases were settled with a warning and did not involve selling of sexual services. Under federal criminal law, solicitation and operating and/or owning a brothel are criminal offenses. These laws were enforced. Child prostitution is illegal and considered a serious criminal offense.

1L. (SBU) All Malaysian military personnel assigned to peacekeeping missions received training on trafficking in persons at Malaysia's Peacekeeping Training Center at Port Dickson. There were no allegations that Malaysian servicemembers were involved in TIP or exploited trafficking victims.

1M. (SBU) Malaysia did not have an identified child sex tourism problem, although there were known instances of victims under 18 years of age that were trafficked for sexual exploitation. Police referred five minors, aged 16 to 17, who were victims of commercial sexual exploitation to the Women Ministry's TIP shelter for children. According to credible sources, some sex tourism did occur in some locations such as Labuan in East Malaysia.

15. PROTECTION AND ASSISTANCE TO VICTIMS (PARA 26)

A/B/C. (SBU) Malaysia's anti-TIP law allows government officials to place suspected and certified TIP victims in

designated places of refuge, primarily the two shelters operated by the Women's Ministry, for up to 90 days. The law stipulates suspected TIP victims are given a medical examination and treatment and/or hospitalization if required.

The law also protects the identity of TIP victims, prohibiting the publication of TIP victims' photos, names, and addresses. The RMP referred 98 suspected TIP victims to the two government-operated shelters in Kuala Lumpur, one designated for safeguarding minors. The Women's Ministry identified a third shelter, located in the East Malaysian city of Kota Kinabalu. The shelter is currently undergoing renovation and is scheduled to open the first half of 2009. The Women's Ministry is also planning to establish a fourth shelter in Johor Baru, along the Malaysian-Singapore border in 2009. The Women's Ministry identified a possible location in Johor Baru in 2008, but rejected it as the location did not meet the ministry's standards for a TIP shelter. The GOM did not release budgetary information regarding the two shelters. Some suspected trafficking victims continued to be housed at immigration detention centers, pending repatriation, but were not charged under immigration or other possible violations. There was no information available regarding funding and assistance the GOM provided to trafficking victims and to NGOs involved in combating trafficking. The GOM does not have designated facilities for male TIP victims.

(SBU) The RMP also referred additional suspected TIP victims to NGO and embassy operated shelters. The RMP in the east Malaysian state of Sarawak requested Tenaganita open a permanent office in the state capital, Kuching, to assist police with trafficking victim counseling and repatriation. Tenaganita coordinated with police in Sarawak to conduct a series of rescues that resulted in 17 male Cambodians forced to work on commercial fishing boats. Police also invited Tenaganita to have counselors present during seven raids conducted in and around Kuala Lumpur.

D/E. (SBU) The GOM houses TIP victims for a maximum 90 days

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in government-operated shelters. Magistrates have the authority to authorize longer stays, depending on the AGO's need and the TIP victims willingness to testify against alleged traffickers. The GOM explained its policy is to repatriate TIP victims as soon as practical, taking into consideration legal proceedings against alleged traffickers, in order to minimize TIP victims' trauma. The GOM does not provide long-term housing/shelter or other resources to TIP victims. Standard social services are available to Malaysian nationals who are TIP victims.

1F. (SBU) In addition to the formal referrals to government operated shelters the Royal Malaysian Police continued its informal process of referring suspected TIP victims to shelters their respective embassies or Tenaganita operated. Tenaganita's shelter can house up to 25 women. Most victims remained at the shelter for an average of three months. Tenaganita provided counseling, medical assistance and language training to foreign and domestic victims of trafficking. Tenaganita offered comprehensive services to TIP victims. Previously, Tenaganita received funding from PRM to operate their shelter for TIP victims. The Malaysian Bar Council and the International Federation of Women Lawyers (IFWL) continued to provide pro bono legal assistance to victims of trafficking.

1G. (SBU) Magistrates reviewed the cases of 98 suspected TIP victims and formally certified 34 as TIP victims during the reporting period. All 98 were admitted to the Women Ministry's TIP victim shelters and received counseling from the ministry's protection officers, who are trained social service officials.

1H. (SBU) Law enforcement agencies and the AGO issued guidelines for identifying and processing suspected TIP

victims. Immigration authorities did not use an effective system to screen detained foreign prostitutes for identification as trafficking victims. Instead, immigration officials reportedly processed them for the quickest possible deportation. In some cases, especially those involving deportation over land borders such as along the Malaysian-Indonesian border on Borneo, this made trafficking victims vulnerable to traffickers operating near the border. Some unidentified victims continued to be charged for prostitution and immigration charges. If victims were not identified, they were often fined and later deported as illegal immigrants.

I. (SBU) GOM officials respected the rights of suspected and certified TIP victims. Suspected and certified TIP victims were not charged with criminal or immigration violations.

J. (SBU) The Malaysian government encouraged victims to assist in the investigation and prosecution of traffickers, but reported that most victims were unwilling to testify or did not have sufficient information to assist in a prosecution. A trafficking victim may file a civil suit against a trafficker under Malaysian law. For example, in a case involving 1,300 Vietnamese workers, local and international NGOs assisted workers in filing grievances and civil suit against an employer who did not pay them the salary promised and forced them to work in abusive conditions. While there were no specific impediments to the victims' access to such legal redress, they usually were not allowed to obtain employment while the court considered their cases. For economic reasons victims usually did not pursue this type of action. Victims who were material witnesses in court cases against suspected traffickers were sheltered within the Women Ministry's TIP shelter until the case was concluded or their testimony finished, at which time they were repatriated. There were no government restitution programs for victims during the reporting period.

K. (SBU) The RMP, AGO, and Women's Ministry provided specialized training on identifying TIP victims to the

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respective government agencies and staff involved in combating TIP. The government does not train staff in its embassies and consulates to provide assistance and protection to Malaysians trafficked overseas. The government did not release information on the number of Malaysian TIP victims it assisted.

L. (SBU) Repatriated Malaysian victims who did not have the support of family or friends were referred to the Women's Ministry for public assistance. The welfare wing of a political party, the Malaysian Chinese Association (MCA), also offered services to repatriated victims.

M. (SBU) Tenaganita, Sisters of the Good Shepherd (a Catholic religious order) and various international organizations, including the International Organization for Migration and the United Nations High Commission for Refugees repatriated victims, provided some social services, and coordinated continued support in victims' respective countries. The RMP cooperated with these organizations in their repatriation efforts.

16. PREVENTION (PARA 27) -----

A. (SBU) The GOM did not sponsor anti-trafficking information or education campaigns during the reporting period. The National Council of Women Organization, a member of the national TIP council, conducted a national anti-TIP workshop for master trainers as part of its awareness program in November 2008. Tenaganita, in cooperation with the RMP, distributes information regarding a 24-hour hotline for reporting cases of domestic worker abuse, including situations involving forced labor. The information targets

both potential victims and people who may have knowledge of alleged abuses. The GOM did not conduct an awareness campaign to reduce "demand" that facilitated labor trafficking. In the GOM's UPR submission, the government asserted it embarked on a public awareness campaign. Post contacted GOM sources and the awareness campaign was limited to some GOM agencies and did not, at this time, target the public.

1B. (SBU) The Immigration Department continued to deploy a biometric system to screen individuals for prior entry into Malaysia. This system also guarded against entry under assumed identities, which traffickers sometimes used when bringing victims through border crossings.

1C. (SBU) The national TIP Council coordinated the GOM's anti-TIP efforts. Government agencies worked closely with NGOs, civil society organizations, and international organizations on TIP during the reporting cycle. Police worked with Tenaganita and the Catholic Church to shelter and assist repatriating rescued trafficking victims to their countries of origin. Police cooperation with the Catholic Church provided an international network capable of linking rescued victims with NGOs and civil society organizations in their countries of origin.

1D. (SBU) SUHAKAM was the primary member of the national TIP Council's drafting of a national TIP action plan. The plan addressed four main components, 1) prevention and awareness, 2) victim protection, care, and support, 3) legislative framework and policy development, and 4) law enforcement. The Home Ministry, RMP, and Women's Ministry also provided input into the draft action plan. The GOM did not make public information regarding the action plan's details or finalization. The GOM began implementing elements of the draft action plan by focusing on developing GOM anti-TIP capabilities and implementing the anti-TIP law.

1E. (SBU) The GOM regularly briefed the mainstream media about police raids on brothels. Police targeted raids on venues used as fronts for brothels, such as karaoke bars,

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hotels, spas, etc.

1F. (SBU) Post does not have information regarding GOM efforts to reduce the participation in international child sex tourism by Malaysian nationals.

1G. (SBU) All Malaysian troops assigned to peacekeeping missions attended specialized training on TIP at the Peacekeeping Training Center in Port Dickson, Malaysia. No TIP-related charges or allegations of misconduct were filed against Malaysian servicemembers during the reporting period.

17. NOMINATION OF HEROES & BEST PRACTICES (PARAS 28 & 29)

(SBU) TIP Hero: Alice Nah, Migration Working Group: Alice is a passionate defender for the rights of TIP victims, refugees, and labor migrants in Malaysia. She is a founding member of the Migration Working Group (MWG), a network of lawyers, academicians and volunteers whose primary focus is to care, protect, and defend the rights of refugees and migrant workers who are especially vulnerable to becoming victims of forced labor. Through the efforts of MWG's network, Alice is involved in a campaign urging law enforcement agencies to effectively identify and protect refugees and migrant workers who become TIP victims. Alice raises government and public awareness through online articles describing the plight of TIP victims, refugees, and migrant workers. Her most recent article, widely publicized by local and international media, in January 2009 addressed the trafficking of Burmese refugees along the Malaysian-Thai border. The MWG was an active member of the United Nation's Universal Periodic Review on Malaysia. In that context, she

addressed GOM human rights efforts, including TIP, and presented recommendations of how the GOM can improve its record and act more transparently in addressing human rights and TIP issues.

(SBU) Best Practices: Our submission is the repatriation assistance and counseling provided by the Sisters of the Good Shepherd in Malaysia. This Catholic organization is most active in East Malaysia and works closely with the RMP and Tenaganita. The Good Shepherds provide sanctuary for rescued TIP victims in Sabah. While awaiting victims' repatriations, the sisters of the Order provide counseling and emotional support to the victims. They use the Order's established network to coordinate receipt of TIP victims in their country of origin so the victims are connected with social services and NGOs focused on assisting TIP. The Order provided assistance to TIP victims from the Philippines, Vietnam, Cambodia, Indonesia, and elsewhere during the reporting period. The global network of the Good Shepherds helps maximize the assistance available to TIP victims upon their repatriation.

KEITH